

1 Bureau's -- whether the Bureau was or was not misled by  
2 these misrepresentations was not relevant.

3 JUDGE SIPPEL: Well, I heard what Mr. Shook is  
4 saying and he doesn't think that the stipulation is going to  
5 go that far to get into whether or not these particular  
6 witnesses were "mislead." He said it is just background  
7 information and identification of documents which is very  
8 helpful.

9 MR. SOUTHARD: I guess it depends on what the  
10 stipulation is going to say.

11 JUDGE SIPPEL: It depends on what the stipulation  
12 looks like, I understand.

13 MR. HUTTON: Yes. I think we need to reserve the  
14 right to cross examine based on what the stipulation  
15 contains.

16 JUDGE SIPPEL: Well, I am going to be very  
17 reluctant to leave -- I am going to be very reluctant to let  
18 a stipulation with the -- and rule that it is coming in, but  
19 the witnesses have to come in for cross examination. I  
20 don't like that process at all.

21 I am going to -- I am taking Mr. Shook at his  
22 word. If it comes to that a stipulation can't be worked  
23 out, Mr. Cole could always make a proffer with respect to  
24 what their testimony would be if they were called to  
25 testify. And I could make a ruling at that time. We

1 certainly could have a proffer on it though.

2 I have the same recollection about having focused  
3 on this earlier on and came up with a determination that I  
4 was convinced -- I think my first reaction was that I  
5 thought that the -- that their mental state of mind was  
6 relevant and I was convinced to the contrary. It is  
7 something that does happen quite frequently.

8 So I think the best thing to do right now is just  
9 leave it in the posture that you stated. And we will take a  
10 look at the stipulation and take it one step at a time. But  
11 anyway, that would -- my assumption is going to be, I think  
12 as your assumption is, Mr. Cole, that we probably are not  
13 going to hear live testimony from these two witnesses.

14 Now, that takes care then of everything you are  
15 responsible for as far as witnesses?

16 MR. COLE: I believe so, Your Honor. Yes.

17 JUDGE SIPPEL: Now, the one question I have is  
18 with respect to Thursday. Thursday, unless Mr. -- you are  
19 reserving that for a continuation of Mr. Parker.

20 MR. COLE: Yes.

21 JUDGE SIPPEL: And you are not really --

22 MR. COLE: I am not 100 percent sure. But if I  
23 could point out, Your Honor -- and I am now stepping into  
24 the next section of my preliminary notice. But it was  
25 hooked on to this section. I think some holes in the

1 witness schedule may not necessarily be inappropriate  
2 because I gather you have spoken with Mr. -- with Judge  
3 Steinburg.

4 And I believe you are aware that the parties have  
5 initiated largely at Mr. Shook's instigation an informal  
6 settlement process or settlement discussions under the aegis  
7 -- under the informal aegis of Judge Steinburg. And we have  
8 had at least one meeting and one counsel with Judge  
9 Steinburg. And when that was left last week, we are all I  
10 believe -- and obviously, anyone who disagrees can correct  
11 me on this -- my understanding was that we all agree that  
12 with the parties in town this week, we would try to get  
13 together again at least once, if not more often, with the  
14 principals together and continue the discussions.

15 Obviously, if we are working full hearing days,  
16 those discussions are going to be difficult. I mean, we can  
17 do them at night. But I would suspect we are going to be a  
18 little bit tired. So having at least a chunk of time during  
19 a day would be useful. And I think from that point of view,  
20 having some opportunity on Thursday would be -- could be  
21 useful.

22 JUDGE SIPPEL: You mean meeting amongst the  
23 attorneys and the parties?

24 MR. COLE: Yes, sir.

25 JUDGE SIPPEL: Well, i don't have any problem with

1     that, but -- at all. I mean, I am of a mind that settlement  
2     is always in the best interest of the case if it is a good  
3     settlement. But how about if we could get Ms. Freedman in  
4     on Thursday, you know, Mr. Parker's carry-over was just a  
5     tad of a little bit.

6             And we've got Ms. Freedman in. We might be able  
7     to wrap it all up by Thursday midday. And that would leave  
8     you Thursday afternoon and going into Friday to do your --  
9     you know, you would have more of an open book it seems to me  
10    as far as scheduling things.

11            MR. COLE: That's fine with me, Your Honor. Let  
12    me call Mr. Geolot during the break today and -- or when we  
13    get out of here today and I will report back to Ruby this  
14    afternoon. As I say, I did not get the impression from  
15    him -- from Mr. Geolot, that is, that Ms. Freedman was  
16    completely out of pocket until Friday.

17            But it was her strong preference to on Friday, to  
18    do it Friday rather than earlier in the week. And I will  
19    see if she is available on Thursday. If that is a possible  
20    thing, I will try to schedule that in and report back.

21            JUDGE SIPPEL: Now, if -- you know, I don't want  
22    to leave this without trying one other thing. And that is  
23    that it could conceivably be that you are going to have so  
24    little to do Thursday morning that you would have all day  
25    with the parties to talk about settlement on Thursday and we

1 could use Friday for some of the Reading testimony or from  
2 some of the testimony -- or if your principals are going to  
3 be in town to talk about settlement, some of those  
4 principals could go on the stand on Friday.

5 MR. COLE: I expect they probably -- I don't think  
6 there is any problem with that, although I thought we had --  
7 there was the understanding and I am sure Reading will speak  
8 to this that there was going to be a one-day lay-day between  
9 Phase 2 and Phase 3.

10 JUDGE SIPPEL: Oh, yes. We did have a time-out  
11 day. You are right.

12 MR. COLE: And I think that would work more to  
13 their disadvantage than to mine. But, you know.

14 JUDGE SIPPEL: All right. Let me ask from the  
15 Reading side of the table then, if we do that, if we give --  
16 if Friday is a time out day and you are going to start on  
17 Monday morning I take it probably with Ms. Swanson or  
18 somebody, would these witnesses -- do you feel that these  
19 witnesses can be finished by the end of the week, all of  
20 your witnesses, you know, given --

21 MR. SOUTHARD: Yes.

22 MR. HUTTON: Yes. Particularly since we are doing  
23 Haag and Umans through depositions rather than direct. So,  
24 yes.

25 MR. COLE: And also with respect to the Phase 3, I

1 just want to put everybody on notice that while I still have  
2 it under consideration, I am leaning very heavily not to  
3 calling Mr. Mattmiller and just let Mr. Mattmiller's  
4 testimony go in as is and not bother to cross examine him.  
5 But, again, I have not made that decision yet because I  
6 don't -- didn't understand we were going to be doing Phase 3  
7 this week. But I will try to get word on that today or  
8 tomorrow to everybody concerned.

9 MR. HUTTON: I am confused, Your Honor. The  
10 deadline for calling witnesses for cross examination has  
11 long since passed. Mr. Cole did not call Mr. Mattmiller for  
12 cross examination. I think he has waived the -- waived it.

13 JUDGE SIPPEL: Where does Mattmiller come into  
14 this?

15 MR. COLE: Mr. Mattmiller -- they have proffered a  
16 written direct testimony of Mr. Mattmiller. I believe I  
17 filed a letter which I do not have in front of me, but I  
18 will check my records. But I believe a letter noticing Mr.  
19 Parker and Mr. Mattmiller for cross examination was  
20 exchanged.

21 MR. HUTTON: I never received it.

22 MR. SHOOK: I have no recollection of such.

23 JUDGE SIPPEL: Me neither.

24 MR. COLE: Well, if that is the case, I apologize  
25 about that, Your Honor. In which case, I may have waived

1 Mr. Mattmiller anyway. But I was reasonable confident that  
2 I had done that. I will double-check my records and find  
3 out. But those are the only two that I had noticed.

4 JUDGE SIPPEL: Mr. Mattmiller and Mr. Parker.

5 MR. COLE: Yes.

6 JUDGE SIPPEL: Well, I know Mr. Parker was in your  
7 trial brief.

8 MR. COLE: Yes.

9 JUDGE SIPPEL: I don't think Mr. Mattmiller was.

10 MR. COLE: No. No, he was not.

11 JUDGE SIPPEL: Well, all right. Well, let's see  
12 what the search of your files comes up with. I think I  
13 would recall having received it. Unfortunately, I don't  
14 have my correspondence file. I did not -- I neglected to  
15 bring it down with me. But, well, let's see now where does  
16 that exactly leave us. There should not be any problem in  
17 terms of completing this case by the end of next week.

18 MR. COLE: I don't believe so, no.

19 JUDGE SIPPEL: So then I don't see any -- well, I  
20 have already determined that there would be a day off. And  
21 I think it is good for everybody that we do it. But  
22 particularly since you are -- you know, people are in a  
23 settlement mode of sorts. Fine. Let's do it. All right.

24 For today's -- today is an admissions day,  
25 admissions session. And since we are into Phase 2, the

1 first documents are going to be Adams responsive documents.  
2 Is that correct?

3 MR. COLE: That's correct, Your Honor, although,  
4 Your Honor, if I might just interject one last thing on the  
5 settlement question before we move into Phase 2 exhibits.

6 JUDGE SIPPEL: All right.

7 MR. COLE: Judge Steinburg during the meeting last  
8 week indicated that he had mentioned to you, had a very  
9 brief conversation with you just advising you or apprising  
10 you that we were undertaking at least settlement  
11 discussions.

12 And according to Judge Steinburg -- or Judge  
13 Steinburg reported that in the course of that conversation  
14 with you, you had indicated in some way that the parties  
15 might consider a white knit settlement. And he, Judge  
16 Steinburg, was not able to give us much more insight into  
17 what you meant by that.

18 As I indicated during the meeting in front of  
19 Judge Steinburg, and I will state it for the record, Adams  
20 has never contemplated a white knight settlement at all.  
21 But if that is -- you know, if Your Honor wishes us or  
22 thinks that would be a direction into which settlement  
23 discussions should move, we would obviously be willing to  
24 remain open to it. But it is not something, you know, we  
25 have considered.



1           But I guess what I would like would be at least  
2     some further guidance from you as to what exactly that  
3     comment meant, if it meant anything. And it may not have  
4     meant anything at all in which case --

5           JUDGE SIPPEL: Well, certainly it meant something.  
6     Does anybody else have any problem with my talking about  
7     this to this extent this morning? That is not what we are  
8     here for, but --

9           MR. SHOOK: I think at this point everybody  
10    understands that what you are about to say is really only in  
11    the context of a settlement possibility and nothing more.  
12    With that, the Bureau is fine.

13          JUDGE SIPPEL: All that I meant by that comment  
14    was that we've got two very serious added issues to this  
15    case. And in order to get a settlement down the road, if  
16    that is in the cards, these issues are going to have to be  
17    dealt with.

18          If a white knight were brought into the picture,  
19    one of those issues would not have to be dealt with. It  
20    obviously would -- it would obviously move things along in  
21    terms of a potential settlement. It would move things along  
22    in terms of, you know, less work that would have to go into  
23    the resolution on those issues. So that is all it is.

24          I thought it was just a very practical, pragmatic  
25    reaction to the -- you know, to what I am hearing, that

1     there is this definite interest or there is a real  
2     interest -- I wouldn't say definite -- there is a real  
3     interest in settling the case. That's all. Do you have  
4     anything to say about that?

5             MR. SHOOK: Just as a reaction, it strikes me as  
6     problematical that a settlement could be approved without  
7     there being some serious difficulty unless the Adams issue  
8     does get resolved in their favor because the whole point of  
9     that issue is that they are not supposed to be here if the  
10    primary purpose or the purpose of their filing their  
11    application was to achieve a settlement. And lo' and  
12    behold, look at what we have.

13            MR. COLE: That was my problem, Your Honor.

14            JUDGE SIPPEL: I -- you know, I didn't create the  
15    situation.

16            MR. SHOOK: No, no. We understand that. It's  
17    just that what we have been talking about among ourselves  
18    envisioned something different. That's all.

19            JUDGE SIPPEL: All right.

20            MR. SHOOK: And when the notion of a white knight  
21    settlement came up, it is not as if we were are  
22    institutionally reluctant to go that way. It's just that  
23    given the particular circumstances of this case, that might  
24    pose to be much more of a problem than it would be in a lot  
25    of other situations.

1 JUDGE SIPPEL: Well, I'm sure that your collective  
2 insights and wisdom into this are much ahead of mine. That  
3 was my reaction. And I -- there is a lot of -- there is  
4 more behind -- I mean, there is something behind it, I can  
5 assure you of that. But I don't want to get into it because  
6 I don't want to mislead anybody or encourage the wrong  
7 process.

8 I think that you got it -- your comment is very  
9 well taken. Anything that is a serious offer would  
10 certainly be seriously considered. But these are tough  
11 issues. They are both tough issues. And I am not going to  
12 prejudge you. But we'll just have to wait and see.

13 I was -- you know, it was a reaction again to say  
14 that maybe -- you are always looking -- when you get into  
15 settlement, you are always being pragmatic and trying to go  
16 down what is the easiest road to go down. And that was my  
17 initial reaction. Now, whether I was right on that, I don't  
18 know. But at least you will have all considered it and  
19 thought about it. All right.

20 MR. COLE: Thank you, Your Honor.

21 JUDGE SIPPEL: That's it. The first number I have  
22 is Adams Exhibit Number 49. Is that right? Is that  
23 everybody's --

24 MR. COLE: I have Adams Exhibit Number 44 for  
25 Phase 1.

1 JUDGE SIPPEL: We finished at 44.

2 MR. COLE: I mean 43. And then I have 5 --

3 JUDGE SIPPEL: Oh, I see.

4 MR. COLE: -- Phase 1, public witness transcripts.  
5 And I believe Mr. Hutton has 18 or 19 which are still  
6 cleaning up Phase 1. Would you like to clear up Phase 1  
7 first?

8 JUDGE SIPPEL: Well, yes. Yes. You tell me your  
9 first document.

10 MR. COLE: My first number for right now for this  
11 morning is 44.

12 JUDGE SIPPEL: All right. Okay. And 44 is a  
13 transcript of the deposition of John Loos, L-O-O-S.

14 MR. COLE: That's correct. And I believe that is  
15 pronounced Loos. But I find that out halfway through the  
16 deposition.

17 JUDGE SIPPEL: That's all right. Well, is it --  
18 well, why don't you -- is there going to be any objection to  
19 this? Can this go in fast?

20 MR. SHOOK: There is no objection.

21 JUDGE SIPPEL: All right. Let's move them in  
22 then. Be sure that the Reporter has them and that they are  
23 marked.

24 MR. COLE: The Reporter has two copies of a green  
25 notebook with an attractive orange label on the front and

1 spine. The green notebook contains documents that are all  
2 separately tabbed, number Exhibit Numbers 44, 45, 46, 47 and  
3 48.

4 Forty-four is the deposition transcript of John  
5 Loos, L-O-O-S. Adams 45 is the deposition transcript of  
6 Lawrence Medaglia, M-E-D-, as in dog, A-G-, as in Gloria, L-  
7 I-A. Adams 46 is the deposition transcript of James  
8 Troutman, T-, as in Tom, R-O-U-T-M-A-N. Adams 47 is a  
9 deposition transcript of Roger Kimpland, K-I-M-P-, as in  
10 Paul, L-A-N-D. And Adams 48 is the deposition transcript of  
11 David Baldinger, B-, as in boy, A-L-D-I-N-G-E-R.

12 And I have provided the Reporter with two copies  
13 of this document. I have previously exchanged copies with  
14 Your Honor and other counsel. And I move the admission --  
15 first, I request that these be identified as I have so  
16 indicated.

17 JUDGE SIPPEL: The Reporter will mark these  
18 exhibits, proposed 44 through 48, as Adams proposed exhibits  
19 for identification. Mr. Hutton, you have indicated that you  
20 are not going to make any objection to these exhibits.

21 MR. HUTTON: No, I don't.

22 JUDGE SIPPEL: All right.

23 MR. COLE: And I offer them into evidence.

24 JUDGE SIPPEL: They are received in evidence at  
25 this time as Adams Exhibits 44, 45, 46, 47 and 48 as

1 identified.

2 (The documents referred to  
3 were marked for identification  
4 as Adams Exhibits Nos. 44  
5 through 48 and received in  
6 evidence.)

7 MR. COLE: Thank you, Your Honor.

8 JUDGE SIPPEL: All right. Now, let's go off the  
9 record for just a minute.

10 (Off the record.)

11 JUDGE SIPPEL: Okay. Those are the documents that  
12 Adams had today. And how about the Phase 1 documents that  
13 Reading has today?

14 MR. HUTTON: Your Honor, we start with Reading  
15 Exhibit 25 which is the deposition of Warren Haggerty.

16 JUDGE SIPPEL: Okay. And how many of these are  
17 you -- can you -- is this -- how many of these are going to  
18 be your Phase 1 exhibits?

19 MR. HUTTON: I would estimate we have about 15  
20 depositions.

21 JUDGE SIPPEL: I've got 25 through 34 in your  
22 first volume. Is that right?

23 MR. HUTTON: Yes. Everything in the first volume  
24 is public witness depositions.

25 JUDGE SIPPEL: Phase 1.

1 MR. HUTTON: Yes.

2 JUDGE SIPPEL: All right. Why don't you do this.  
3 Why don't you just -- this is Volume 1. It is a gray  
4 volume. Does the Reporter have what I have --

5 THE COURT REPORTER: Yes.

6 JUDGE SIPPEL: -- or is it in a different -- you  
7 do. All right. Why don't you just read down 25 through 34  
8 and identify each of these depositions.

9 MR. HUTTON: Okay. Exhibit 26 is the deposition  
10 of Sandra Kissinger.

11 JUDGE SIPPEL: Well, wait a minute. Start with 25  
12 again.

13 MR. HUTTON: Okay. I thought I had. Reading  
14 Exhibit 25 is the deposition of Warren Haggerty. And it is  
15 53 pages in length.

16 JUDGE SIPPEL: All right.

17 MR. HUTTON: Reading Exhibit 26 is the deposition  
18 of Sandra Kissinger, K-I-S-S-I-N-G-E-R. And it is 68 pages  
19 in length. Reading Exhibit 27 is the deposition of Linda  
20 Witman, W-I-T-M-A-N. And it is 44 pages in length. Reading  
21 Exhibit 28 is the deposition of Phyllis Watts. And it is  
22 105 pages in length. Reading Exhibit 29 is the deposition  
23 of Ralph Trainer, T-R-A-I-N-E-R. And it is 58 pages in  
24 length.

25 Reading Exhibit 30 is the deposition of Ray M.

1 Schacht, S-C-H-A-C-H-T. And it is 72 pages in length.

2 Reading Exhibit 31 is the deposition of Jane Meeks, M-E-E-K-  
3 S, Squibb, S-Q-U-I-B-B. And it is 36 pages in length.

4 Reading Exhibit 32 is the deposition of Stanley J. McCarty,  
5 M-c-C-A-R-T-Y. And it is 66 pages in length.

6 Reading Exhibit 33 is the deposition of Thomas R.  
7 Caltagirone. That's spelled C-A-L-T-A-G-I-R-O-N-E. And it  
8 is 91 pages in length. And the last Reading exhibit in this  
9 volume is Reading Exhibit 34, the deposition of Monica  
10 Ruano-Wenrich. That's R-U-A-N-O-W-E-N-R-I-C-H. And it is  
11 68 pages in length.

12 JUDGE SIPPEL: Why don't we finish -- the next  
13 volume also has --

14 MR. HUTTON: The next volume has several more.

15 JUDGE SIPPEL: All right. Why don't we read those  
16 into the record, also. These are all public witnesses now.

17 MR. HUTTON: Reading Exhibit 35 is the deposition  
18 of Ronald Rouse, R-O-U-S-E. And it is 21 pages in length.  
19 Reading Exhibit 36 is the deposition of Richard Bennett, B-  
20 E-N-N-E-T-T. And it is 30 pages in length. Reading Exhibit  
21 37 is the deposition of Douglas F. Didyoung, Sr. Didyoung  
22 is spelled D-I-D-Y-O-U-N-G. And that exhibit is 36 pages in  
23 length.

24 Reading Exhibit 38 is the deposition of Joan  
25 Breisch, B-R-E-I-S-C-H. And that deposition is 96 pages in



1 length. Reading Exhibit 39 is the deposition of Daniel  
2 Dillard, D-I-L-L-A-R-D. And it is 46 pages in length.

3 Reading Exhibit 40 is the deposition of Michael  
4 O'Pake, O-'-P-A-K-E. And that exhibit is 39 pages in  
5 length. Reading Exhibit 41 is the deposition of Frederick  
6 C. Windbeck, Jr., W-I-N-D-B-E-C-K. And that exhibit is 35  
7 pages in length. And then finally, Reading Exhibit 42 is a  
8 document for which we request official notice. And that is  
9 simply the most current annual ownership report for Reading  
10 Broadcasting, Inc. And that exhibit is 101 pages in length.

11 THE COURT REPORTER: Your Honor, are we going to  
12 mark all these now, too, or what?

13 JUDGE SIPPEL: Let me see what I have from the  
14 other side. Let me see if counsel has any objection to  
15 these.

16 MR. COLE: Your Honor, I have no objection. But I  
17 am -- Mr. Bechtel has suggested I point out to Your Honor  
18 and to the other counsel that Mr. Bechtel conducted these  
19 depositions on behalf of Adams and that during the course of  
20 some of them, there were apparently some questions and  
21 answers which involved programming or documents outside the  
22 license agreement, possibly late into the third quarter of  
23 1994 beyond the August 1 cut-off date.

24 We don't propose to go through and flyspeck each  
25 and everyone of these depositions and pull out those

1 references because we expect that Your Honor will be able to  
2 perceive where the cutoff is and ignore material after that.  
3 But I just wanted to state for the record that we -- by not  
4 objecting to any of these, we are not objecting to -- we are  
5 not waiving an objection to consideration of post-term  
6 information.

7 JUDGE SIPPEL: Well, that won't be any problem. I  
8 mean, you are on notice of that, Mr. Hutton. And we do have  
9 a renewal term. And it is only the evidence that is within  
10 the term. And we all know -- we all do know that. But I  
11 think this is very important to point out. And it is  
12 another one of the reasons for reply pleadings I guess.

13 MR. COLE: Well, with that observation, we have no  
14 objection.

15 JUDGE SIPPEL: Thank you very much. Then all of  
16 those documents as they have been identified by counsel for  
17 Reading, that is 25 through 42 as identified, are hereby  
18 received in evidence as those exhibits. And let's go off  
19 the record so the Reporter can get a handle on this now.

20 (The documents referred to  
21 were marked for identification  
22 as Reading Exhibits Nos. 25  
23 through 42 and were received  
24 in evidence.)

25 (Off the record.)

1 JUDGE SIPPEL: Back on the record. Yes, go ahead,  
2 Mr. Cole.

3 MR. HUTTON: Your Honor, an additional Phase 1  
4 exhibit is -- was exchanged as Reading Exhibit 48 in our  
5 Volume 3. And that is the joint engineering statement of  
6 Michael Rhodes, R-H-O-D-E-S, Garrison C. Cavell and John  
7 Lundin, L-U-N-D-I-N. That is the joint engineering exhibit  
8 of comparative coverage. And if you wish, we could have  
9 that marked as a joint exhibit or leave it as Reading  
10 Exhibit 48.

11 JUDGE SIPPEL: I am trying to find it. Oh, I have  
12 it on my chair. It is way in the back of the third volume.

13 MR. HUTTON: Yes.

14 JUDGE SIPPEL: Well, if it is already -- if you  
15 already have it marked as your 48 and there is not going to  
16 be any objection to it but it really -- well --

17 MR. COLE: It is a joint exhibit. I mean, it is  
18 joint -- we certainly have no objection to it. If you want  
19 us to mark it as a Reading exhibit, I have no problem with  
20 that. I think the exhibit speaks for itself that it is a  
21 joint engineering statement. So that's fine.

22 JUDGE SIPPEL: All right. So it will be jointly  
23 sponsored by both parties. But we will -- for purposes of  
24 marking, we will mark it and receive it as your Exhibit 48,  
25 Reading.

1 MR. HUTTON: Thank you.

2 JUDGE SIPPEL: So can you find 48. Is it in  
3 Volume 3? Do you see where that is.

4 THE COURT REPORTER: I found it.

5 JUDGE SIPPEL: That is the joint engineering  
6 statement. It is being jointly sponsored by both parties,  
7 but it is going to be marked and received in evidence as  
8 Reading Exhibit Number 48. And the Reporter will so mark  
9 that. All right. Do you have that?

10 (The document referred to was  
11 marked for identification as  
12 Reading Exhibit No. 48 and  
13 received in evidence.)

14 THE COURT REPORTER: Yes.

15 JUDGE SIPPEL: Does that take care of Phase 1  
16 documents?

17 MR. COLE: From Adams' point of view, yes.

18 JUDGE SIPPEL: Both?

19 MR. HUTTON: I believe it does.

20 JUDGE SIPPEL: All right.

21 THE COURT REPORTER: What about Exhibits 45  
22 through 47?

23 JUDGE SIPPEL: Well, they will deal with those  
24 when they come up.

25 THE COURT REPORTER: All right.

1 JUDGE SIPPEL: Just make sure that your stamping  
2 on the second set is done in accordance with as you have it  
3 done in the first set. What is the next proffer that is  
4 going to come from Adams then?

5 MR. COLE: That is correct, Your Honor. Your  
6 Honor, I had previously exchanged with the parties and had  
7 provided to the Reporter two copies of a black folder with a  
8 green label on the front entitled, "Adams Communications  
9 Corporation Phase 2 Documents for Official Notice." I am  
10 not proposing to have these marked for identification or  
11 received into evidence as an exhibit.

12 But I do expect during my cross examination of  
13 some of the witnesses I will have occasion to refer the  
14 witnesses to FCC decisions, reported decisions. And I  
15 thought it would be a handy device if everybody had the same  
16 booklet, collection of decisions similarly tabbed for ease  
17 of reference in the courtroom. And I plan to use this as an  
18 aid to cross examination.

19 And since I will be referring to it in the  
20 document numbers as I have marked them, I thought it would  
21 be good to have a copy received with the record, not as an  
22 exhibit, but just, again, as an aid to understanding the  
23 record. So that's -- if you would like me to give an  
24 additional description of this, I will, although I do  
25 anticipate during the course of cross examination I will be

1 identifying these fairly clearly for the witnesses.

2 JUDGE SIPPEL: Is there any objection to this  
3 procedure?

4 MR. HUTTON: I don't know. I'm a little confused  
5 as to how we are going to use these in our findings if they  
6 are not identified as exhibits and not introduced into the  
7 record, but there is cross examination about them. I'm not  
8 objecting to it, but I just think it raises some potential  
9 problems.

10 MR. COLE: Your Honor, each of these is a reported  
11 decision photocopied from the FCC record. Each of them has  
12 a citation or they are easy to follow. And if I didn't --  
13 if I hadn't compiled them in this manner, I would anticipate  
14 that during the course of cross examination, I could  
15 continually pull out one opinion from the book and show it  
16 to the witness and show it all around and we would be  
17 sitting there talking about this decision, that decision and  
18 another decision. And that might lead to confusion.

19 If we all have the same booklet that has document  
20 numbers, the document numbers and the table of contents are  
21 directly tied to specific citations and decisions with the  
22 FCC record citations included, it's just a matter of  
23 convenience. That's the reason I did it this way.

24 JUDGE SIPPEL: Mr. Shook?

25 MR. SHOOK: I'm perfectly comfortable with Adams'

1 approach.

2 JUDGE SIPPEL: What we will do then is let's --  
3 I'm going to call this Official Notice -- Adams Official  
4 Notice Number 1. And it has got how many tabs in it, 11?

5 MR. COLE: A total of eight.

6 JUDGE SIPPEL: I see 11. I'm sorry, eight tabs --  
7 this has eight tabs and as described by Mr. Cole. And as  
8 official notice documents, they are in the record for  
9 purposes of -- the significance, the relevance, the weight  
10 of them, it all depends in terms of how they are used in the  
11 examination of the witnesses. That is my rule. So did you  
12 get that on the record now? What did I call that? I called  
13 that -- I don't want to repeat myself and then say it wrong.

14 (The document referred to was  
15 marked for identification as  
16 Adams Official Notice No. 1.)

17 (Off the record.)

18 JUDGE SIPPEL: So that takes of your --

19 MR. COLE: That takes care of my official notice  
20 documents, Your Honor. Thank you.

21 JUDGE SIPPEL: All right. And your next item?

22 MR. COLE: My next item is a series of documents  
23 which are contained in a grey loose-leaf notebook with an  
24 international emergency orange label on the front and on the  
25 spine. The label reads, "Adams Communications Corporation

1 Phase 2 Exhibits."

2 JUDGE SIPPEL: The Reporter has two of those?

3 MR. COLE: The Reporter has two of those. And I  
4 have exchanged copies of this notebook with Your Honor and -  
5 - provided copies to Your Honor and to all of the parties.  
6 And what I propose is to identify each of the documents. I  
7 do not propose to offer any of them into evidence today  
8 because they will have to come in through witnesses.

9 That would be my -- I mean, I am happy to offer  
10 them if there is no objection. But my view of these is they  
11 are not -- none of these is a stand-alone piece of  
12 testimony. They are all documents about which I intend to  
13 examine witnesses.

14 JUDGE SIPPEL: Well, this is -- well, you are --  
15 you are prepared to offer them into evidence through  
16 witnesses.

17 MR. COLE: Yes, that's correct.

18 JUDGE SIPPEL: However, if they can be received  
19 through a stipulation -- I mean through no objection or a  
20 stipulation today, you have no problem with that either.

21 MR. COLE: No, absolutely not.

22 JUDGE SIPPEL: Have you had a chance to look at  
23 these, Mr. Hutton?

24 MR. HUTTON: I have. You know, the -- I do have  
25 concerns about -- there is an assignment of license transfer



1 control worksheet. That is --

2 JUDGE SIPPEL: Is there a number on that?

3 MR. HUTTON: Exhibit 9 in the volume I've got.

4 MR. COLE: Fifty-seven. The revised number is 57.

5 MR. HUTTON: Again, this looks to be an internal  
6 FCC document. And I object on grounds of relevance because  
7 this has nothing to do with the issue of the applicant's  
8 statement of mind in the application.

9 JUDGE SIPPEL: All right. Well, let's take these  
10 one at a time. In terms of your general overall feelings  
11 with respect to receiving these into evidence today except,  
12 obviously, for the ones such as 57 that you have a concern  
13 with, can we go down and approach it that way?

14 MR. HUTTON: Sure, I -- yes, let's take them one  
15 by one.

16 JUDGE SIPPEL: All right. Then why don't we  
17 identify -- identify your first document, please.

18 MR. COLE: The first document in the collection of  
19 Adams Phase 2 exhibit is Adams Exhibit Number 49 which is an  
20 application, File Number BPTTL891208ZI of Michael, spelled  
21 M-I-C-H-E-A-L, L. Parker for a construction permit for a  
22 low-powered television station in Los Angeles, California,  
23 filed December 8, 1989. This consists of 28 pages. And I  
24 would request that it be identified as Adams Number 49.

25 JUDGE SIPPEL: All right. The Reporter will so

1 mark that document as 49. Do you have that document, Mr.  
2 Reporter?

3 THE COURT REPORTER: Yes.

4 JUDGE SIPPEL: Okay. And is there an objection to  
5 receiving it into evidence at this time?

6 MR. HUTTON: No, sir.

7 JUDGE SIPPEL: Then as you have identified it,  
8 Exhibit Number 49 for Adams is received in evidence, marked  
9 and received.

10 (The document referred to was  
11 marked for identification as  
12 Adams Exhibit No. 49 and  
13 received in evidence.)

14 MR. COLE: Thank you, Your Honor.

15 JUDGE SIPPEL: Your next document.

16 MR. COLE: I would request that the following  
17 document be identified as Adams Number 50. It is an  
18 application for consent to the transfer of control of the  
19 licensee of Station KWBB TV, San Francisco, California,  
20 filed March 2, 1989. It is 35 pages in length. I request  
21 that that be identified as Adams Number 50.

22 JUDGE SIPPEL: The Reporter will so mark that  
23 document as Adams Number 50. Does Reading object to  
24 receiving it?

25 MR. HUTTON: No, sir.

1 JUDGE SIPPEL: Then Adams 50 is received in  
2 evidence at this time.

3 (The document referred to was  
4 marked for identification as  
5 Adams Exhibit No. 50 and  
6 received in evidence.)

7 MR. COLE: Thank you, Your Honor. Next I would  
8 like to have marked for identification as Adams Number 51 an  
9 application, File Number BTCCT910724KG, for consent to the  
10 transfer of control of the licensee of Station WHRC TV,  
11 Norwell, Massachusetts, filed July 24, 1991. And it is 32  
12 pages in length. And I request that that be identified as  
13 Adams Number 51.

14 JUDGE SIPPEL: All right. The Reporter will so  
15 identify that document as Adams 51 for identification. Does  
16 Reading have any objection?

17 MR. HUTTON: No, although I note that it is  
18 missing the transmittal letter and I am not sure if it is  
19 entirely complete.

20 JUDGE SIPPEL: Well, that can be -- there is going  
21 to be a witness to testify on this anyway. You can, you  
22 know, bring that out on cross examination.

23 MR. HUTTON: Okay.

24 MR. COLE: Also, Your Honor, if Mr. Hutton does  
25 come up with any new omissions, if he could let me know, I